IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5199 OF 2005

Shri.Suresh B.Karnik ..Applicant

Vs.

State of Maharashtra & Anr. ..Respondents

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Mr.A.H.H.Ponda Advocate for Applicant
Mr.D.P.Adsule A.P.P. for the State
Mr.Atul Bhatt for respondent no.2

...

CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : SEPT. 16,2005

P.C.

1. Heard the learned advocate for the applicant, learned advocate for the respondent no.2-orignial complainant and the learned A.P.P. for the State.

2. The applicant is seeking quashing of process issued by the learned Special Magistrate, Small Causes Court, Court No.28, Mumbai in Case No.1879/S/05. In the said case process was issued against the applicant under Section 138 of Negotiable Instruments Act.

3. For the reasons recorded in the decision of this Court in the case of **V.K.Jain and others Vs. Pratap V. Padode reported in 2005(3) Mh.L.J.778,** I am of the opinion that the applicant has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicant prefers a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicant to prefer the necessary revision before the concerned Sessions Court. The learned advocate for the applicant makes a statement that the necessary revision will be preferred within four weeks from today. I am informed that the matter before the trial Court is kept on 10.10.2005. In view of this statement, the trial Court shall not proceed with the trial on 10.10.2005 and one week thereafter. It is made clear that the stay is granted only in respect of proceedings in respect of present applicant and proceedings in respect of other

accused may go on.

. The learned advocate for the respondent no.2-complainant fairly states that no objection will be raised in respect of delay in filing the revision.

5. It is stated on behalf of the applicant that in the said case, NBW came to be issued against the applicant. It is prayed that the said NBW be quashed. I am not inclined to quash NBW as in my opinion, it would be appropriate that the applicant prefers application before the trial Court for setting aside the said NBW.

. Liberty is granted to the applicant to prefer the necessary application. The learned advocate for the applicant states that the necessary application will be preferred within five weeks from today. In order to enable the applicant to take necessary steps for setting aside NBW, the said NBW is stayed for a period of five weeks from today.

6. On the necessary revision being preferred by the applicant before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties. Looking to the fact that the matter is of the year 1996, the revision shall be heard and disposed of expeditiously.

7. Criminal Application is disposed of.

[V.K.TAHILRAMANI,J.]